



STATE OF WEST VIRGINIA
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EARL RAY TOMBLIN
GOVERNOR

April 1, 2016

VIA HAND DELIVERY

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled House Bill 4378

Dear Secretary of State Tennant:

Pursuant to section fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove Enrolled House Bill 4378. This bill creates a new legal process by which a court may order that a guardian of a vulnerable person allows access and provide information about that person to certain relatives.

This bill has several flaws. First, it broadly allows relatives of a protected person to access certain patient information. The sole factor to be used by the court in granting access to certain confidential information of a protected person is whether the protected person "is desirous of contact" with the relative. A protected person's desire to visit with a relative does not necessarily equal the intent to provide access to other confidential data. This is especially true when the definition of "relative" extends beyond the customary familial relationships to include "any person who has a family-type relationship with a protected person."


Second, in situations where a protected person is under guardianship of the Department of Health and Human Resources as a patient, the bill's provisions on releasing information have the potential to conflict with current code relating to confidential disclosures. (*See* W. Va. Code § 27-3-1, Definition of confidential information; disclosures.) Specifically, the access to

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information provided under W. Va. Code § 44A-3-18 will not always be consistent to the exceptions for disclosure of confidential information. *Id.*

In view of the foregoing, I hereby disapprove Enrolled House Bill 4378.

Sincerely,


Earl Ray Tomblin
Governor

cc: The Hon. Tim Armstead
Speaker of the House of Delegates

The Honorable William P Cole III
President of the Senate